

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALLY RISK SERVICES INC.,

Plaintiff,

v.

Case No. 19-cv-11919
Hon. Matthew F. Leitman

HARCO NATIONAL INSURANCE COMPANY,
Defendant.

**ORDER GRANTING IN PART PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER (ECF ## 3, 5)**

On June 26, 2019, Plaintiff Ally Risk Services Inc. filed a Complaint and a motion for a temporary restraining order pending expedited consideration of a preliminary injunction. (*See* ECF ## 1, 3, 5.) Ally claims that Defendant Harco National Insurance Company violated a non-solicitation provision of the Agency-Company Agreement between the parties, with the effective date of July 1, 2012. (*See id.*) The Agency-Customer Agreement includes an arbitration provision that requires the parties to resolve “[a]ny dispute arising out of the interpretation, performance or breach of the [Agency-Customer] Agreement” before a “panel of three arbitrators.” (Agency-Customer Agreement at § XX, ECF #1-2 at Pg. ID 25.) In the Complaint and in the motion, Ally seeks to “maintain the status quo ... pending resolution of an arbitration” between the parties by, among other things,

“enjoin[ing] Harco and its agents from soliciting any customers to whom Ally has ownership rights under [the] Agency-Company Agreement.” (Mot., ECF #5 at Pg. ID 57-58.) Harco filed a response to Ally’s motion on July 1, 2019. (*See* Harco Resp., ECF #10.) The Court held a hearing on Ally’s motion on July 2, 2019.

For the reasons stated on the record, the Court concludes that a very limited temporary restraining order is appropriate so that the issues raised in Ally’s Complaint and motion may be considered and resolved by an arbitration panel on an expedited basis. The Court further concludes, for the reasons stated on the record, that a bond shall not be required at this time due to the limited nature, scope, and duration of this order.

Accordingly, for the reasons stated on the record, it is hereby ordered that Ally’s motion is **GRANTED IN PART** as follows:

- (1) Harco, acting by itself and/or in active concert and coordination with others, shall not solicit Customers as to which Ally has ownership rights of expirations of business, as defined under Section XIII of the Agency-Customer Agreement, during the term of this order.
- (2) Harco shall serve a copy of this order on each of its representatives who is authorized to sell Harco property or casualty insurance policies to auto dealers or truck dealers. Harco shall accomplish this service by email by not later than the close of business on **July 9, 2019**.
- (3) Ally shall submit a demand for arbitration pursuant to Section XX of the Agency-Customer Agreement by not later than the close of business on **July 8, 2019**.

(4) Each party shall name their chosen arbitrator pursuant to Section XX of the Agency-Customer Agreement by not later than the close of business on July 10, 2019.

(5) The parties shall direct their chosen arbitrators to mutually select the third arbitrator, pursuant to Section XX of the Agency-Customer Agreement, by not later than the close of business on July 15, 2019.

(6) Ally shall file with the arbitration tribunal, or, if no tribunal is used, with the arbitrators, a motion for a temporary restraining order and/or preliminary injunction by not later than the close of business on July 16, 2019. Ally shall ask the tribunal and/or arbitrators for expedited consideration of that motion.

(7) The terms of this order shall expire on July 22, 2019. The Court will hold an on-the-record status conference with counsel prior to the expiration of this order to discuss the status of the arbitration proceedings and what next steps, if any, are required in this action.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: July 3, 2019

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 3, 2019, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764